

03196/18388

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

Philip J. Robinson

Serial No: 10/731,926

Filed: December 9, 2003

For: CHILD-RESISTANT, MOLDED PLASTIC CLOSURE, PACKAGE  
INCORPORATING SAME AND CONTAINER THEREOF

Exr. James N. Smalley

Art Unit: 3727

Confirmation No.: 6652

Commissioner of Patents  
and Trademarks  
Washington, D.C. 20231

July 9, 2007

**DECLARATION**

I, Philip J. Robinson, declare and state as follows:

1. I have an Associate Degree in mechanical engineering from Owens Community College and a degree of Bachelor of Science in Business from Heidelberg College, Tiffin, Ohio and have been employed as an engineer with Owens Illinois Closure Inc. since 1991.
2. I am the inventor of the closure disclosed and claimed in the above-identified patent identification and the package utilizing such closure. I have been closely involved in all major phases of its development, including transition from manufacturing prototypes toward manufacturing on a commercial basis and meetings with customers and potential customers directed to finalization of steps

required for the introduction and commercialization thereof.

3. Reference is made to my Declaration November 4, 2006, setting forth certain manufacturing problems in producing closures according to the design of US Patent 5,687,863 (the "Kusz patent"). Attached hereto is Exhibits A, B and C are three colored photos showing the comparison of closures manufactured pursuant to the Kusz patent, shown on the left in each photo, and the closure disclosed and claimed in the present invention, the right in each of such photos. Also attached hereto is a copy of sheet 3 of the drawings of the Kusz patent. Fig. 12 of the Kusz patent has been marked to show (1) axis X extending between the finger engaging portions 30 and their vertical ribs 32, (2) an axis Y (line 11 – 11) extending perpendicular to axis X and close to the ends of the cordal lugs 70 and (3) an axis Z taken through the area of juncture 72 between the lugs 70 and the outer wall or skirt 28. As can be seen from the marked copy of Fig. 12, the axis Z is disposed at an angle to the axis X on the order of 30° - 45°. This is in contrast to the closure of the present invention in which the "... locking lugs 20 are positioned on an axis that extends perpendicularly to a spaced, opposed pair of pads 22 ..." (see page 6, lines 30 – 31 of the specification). This is also shown in the right hand photo of Exhibit B in which the axis A taken through the locking lugs 20 and their areas of juncture with the outer sidewall 14 is substantially perpendicular to the axis B taken through the opposed pads 22.

4. The construction of the closure of the present invention with the locking lugs 20 lying on an axis substantially perpendicular to the axis B extending through the pads 22 permits the sidewall 14 of the closure of the present invention to be positioned significantly closer to the inner sidewall 16 than is possible with the closure of the Kusz patent. The length of the lugs 70 of the closure of the Kusz patent requires that there be a greater space between its outer wall or skirt 28 and its inner wall skirt 34. Such greater space is required to permit the ends of the lugs 70 to move outwardly beyond the radial extent of the opposed abutments 52 as shown in Figure 3 of the Kusz patent. The additional spacing required between the outer wall or skirt 28 and inner wall skirt 34 of Kusz over that needed for the corresponding walls of the present patent application as defined in the claims results in a significantly less amount of plastic being required for any equivalent size of closure for the present invention over that for the closure of Kusz patent, thereby resulting in significant cost savings.

5. As set forth in my Declarations dated January 4, 2006, and November 6, 2006, the comments of which are incorporated herein, the closure of the Kusz patent has not been suitable for manufacture on a commercial basis.

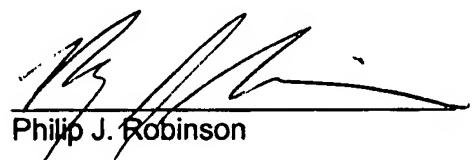
Further Declarant sayeth naught.

The undersigned hereby declares that all statements made herein of his/her own knowledge are true and that all statements made on information and

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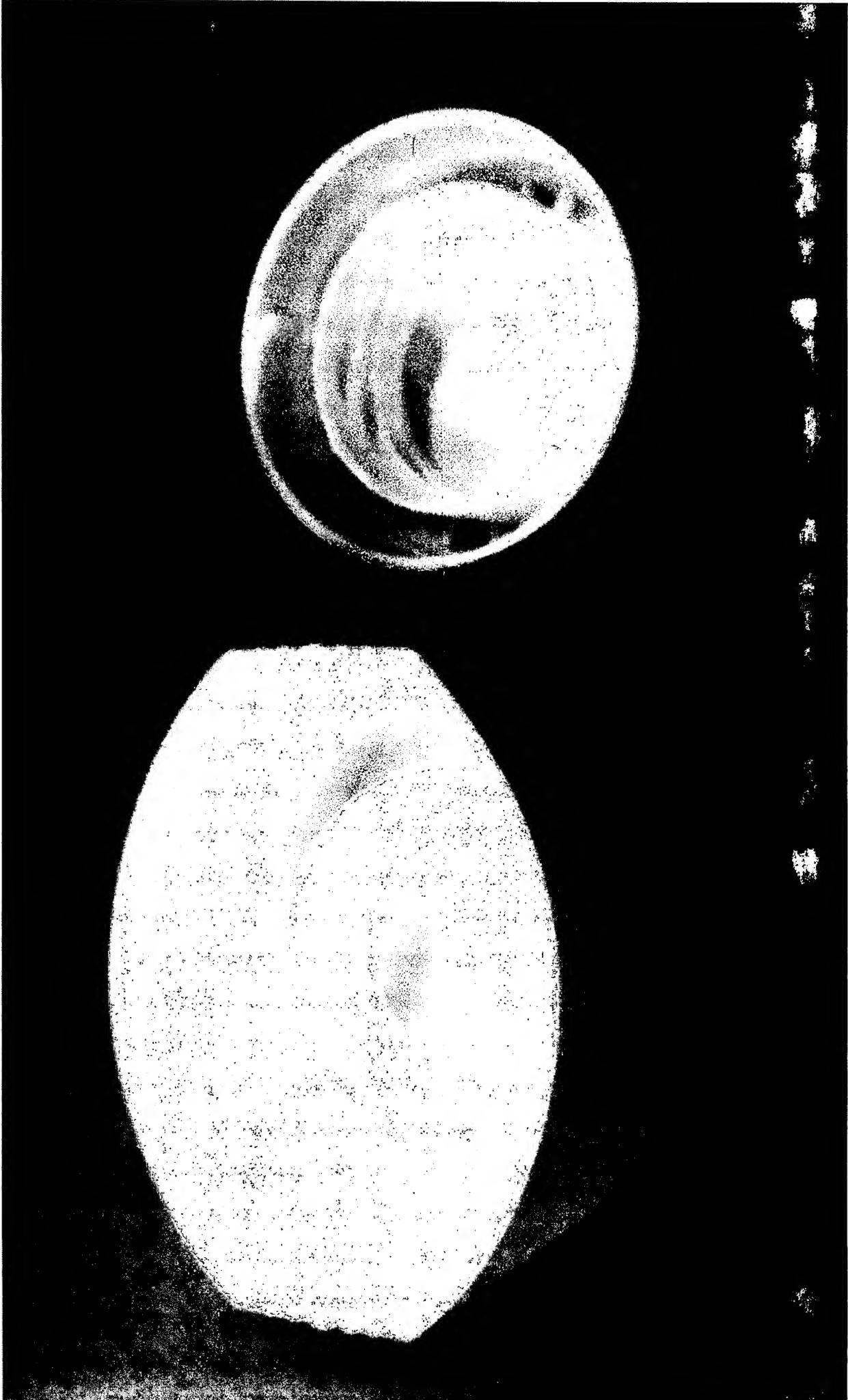
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belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.



The image shows a handwritten signature in black ink, appearing to read "Philip J. Robinson". Below the signature is a thin horizontal line.

EXHIBIT A



14

22



EXHIBIT B

EXHIBIT C

